IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 2951 of 1989
Date of Decision: 7.3.2007

Sh. Balram Bhasin ...Petitioner

Versus

State of Punjab and another ....Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri R.K. Battas, Advocate, for the petitioner.

Shri Sushant Maini, DAG, Punjab, for the respondents.

HEMANT GUPTA, J.

The challenge in the present revision petition is to the order passed by the learned Executing Court on 22.5.1989, whereby the execution application was dismissed as satisfied.

The plaintiff-petitioner filed a suit for possession of the land measuring 2 kanals 2 marlas of the land comprising in Khasra No. 742/2/2. The case of the plaintiff-petitioner is that the respondents have encroached upon his land measuring 2 kanals 2 marlas and constructed a Pucca road on it without acquisition. The said suit was filed on 12.10.1984. The learned trial Court decreed the suit on 3.1.1985, wherein the plaintiff was found to be entitled to possession of the suit land or in the alternative compensation in terms of money to be assessed at the market rate or some other land of equal value.

In appeal against the said judgment and decree filed by the State, the decree passed by the learned trial Court was modified and it

was held that the decree for possession will not be executed if the State provides an alternative land of same value to the respondent or pay compensation at a market value to him within six months from the date of the judgment i.e. 11.9.1985. In pursuance of said decree, a sum of Rs.1,05,000/- was paid to the decree holder on 29.1.1987 in an execution initiated by the petitioner.

The petitioner has relied upon report Exhibit PX/3 submitted by Des Raj, Patwari, who has found that sum of Rs. 2 lacs is the market value of the land acquired after assessing the market value at Rs.4,80,000/- per acre. On the other hand, the respondent-State relied upon report Exhibit D.1 also submitted by the same Patwari, assessing the market value at Rs.4 lacs per acre. The learned Executing Court considered both the reports and found that the payment deposited is proper relying upon Exhibit D.1. It was found that the price determined by the respondents is based upon documentary evidence and therefore, the market value of the land has been paid to the decree holder.

Learned counsel for the petitioner has vehemently argued that the petitioner is entitled to compensation as per the sale instances taken into consideration by the Patwari in the report Exhibit PX/3. The report Exhibit PX/3 is based on the value of sale deed fetching the highest price. The sale deeds as considered in Report Exhibit D.1 have been taken into consideration in report Exhibit PX/3 as well.

Once Des Raj, Patwari submitted a report that a sum of Rs. 2 lacs is the market value of the acquired land, it was not proper for him to submit another report. The market value at Rs.4,00,000/- per acre, has been determined on the basis of average value of sale deeds. The

average valuation may not be the appropriate method for determining the market value of the land. Even the learned trial Court has not given any reason as to why the subsequent valuation should be adopted. As a matter of fact, on the basis of the aforesaid valuation i.e. Rs.4,80,000/- per acre, the market value assessed was Rs. 6,00,000/- after taking into consideration solatium @ 117 p.a. Thus, Des Raj Patwari, has rightly assessed a sum of Rs.2 lacs as the market value of the acquired land after finding the same at Rs.4,80,000/- per acre.

In view of the above, the impugned order dated 22.5.1989 is set aside. The petitioner is found entitled to compensation of Rs.2,00,000/-. On the enhanced amount, the petitioner shall be entitled to interest @ 6% p.a. from the date of decree i.e. 11.9.1985 till its payment.

Civil Revision stands allowed in the above terms.

7.3.2007 (HEMANT GUPTA)
ds JUDGE